* **HIGH COURT OF DELHI : NEW DELHI**

Date of decision: 29th August, 2007

\+ **W.P. (C) No. 1219/2007**

% Rishi Pal Singh .....Petitioner
Through: Mr. U. Srivastava, Advocates

versus

Union of India & Others ..... Respondents
Through: Ms. Parul Sharma and Mr. V.K. Tandon, Advocates

CORAM:

HON'BLE MR.JUSTICE A.K.SIKRI
HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be reported in the Digest?

VIPIN SANGHI, J (Oral)

1. Petitioner challenges the order dated 4th October 2006 passed by Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) dismissing his original application No.186/2006 whereby the Petitioner had sought the consideration of his case for re-engagement as casual labourer in preference to juniors and outsiders and without insisting on the Petitioner getting re-sponsorship of his name from the Employment Exchange.

2. The case of the Petitioner is that he was engaged as a casual labourer on sponsorship, of his name by the Employment Exchange by completing all the required formalities with effect from 18.9.1996. He worked in that capacity up to March 1988 whereafter his services were dispensed with. Respondent, it is claimed, gave a fresh requisition to the Employment Exchange for engaging casual labourers ignoring the fact that the petitioner had worked as a casual labourer. Being aggrieved by this action, the Petitioner preferred O.A. No. 602/1998 before the Central Administrative Tribunal, Principal Bench, New Delhi, (the Tribunal). The same was disposed of on 28.10.1998 by directing the Respondent to consider the re-engagement of the Petitioner as a casual labourer as and when specific need arises for such engagement in preference to junior or fresh candidates and in case the Petitioner completes the requisite number of days, to consider him for grant of temporary status in accordance with the rules.

3. The Petitioner states that he was re-engaged vide order dated 24.12.1998 but he was again dis-engaged from 29.1.1999 onwards on account of completion of work.

4. The Petitioner once again approached the Tribunal by filing O.A. No. 846/2000 before the Tribunal. Since, according to the Petitioner, he was once again called to join duty vide order dated 11.3.1999 but he was in fact not engaged by the Respondent. This OA

was dismissed on 12.5.2000 while giving liberty to the Petitioner to file contempt proceedings. He then filed CP 229/2000 before the Tribunal on the premise that the Respondent had once again engaged a fresh person namely one Shri Sohan Pal in August 2005 thereby ignoring the case of the Petitioner. It was further claimed that the Respondent was again sending requisition to the Employment Exchange for engagement of casual labourer.

5. The Respondents opposed the petition. It was stated that they had engaged the Petitioner in Central Ground Water Board, Faridabad as a daily wager for a specific period on the job which was of casual nature. On 18.9.1996 his services were dis-continued when there was no work. He was not engaged through the local Employment Exchange. His engagement was of temporary in nature, till the regular vacancies were filled up through the local Employment Exchange and upon wide publicity in the employment news. Respondent further stated that in the sumer season, the Central Ground Water Board, Faridabad had engaged same labourers for a specific number of days. The Petitioner was issued an Office Memorandum dated 24.12.1998 for attending general nature of miscellaneous work on casual basis for a period of one month. But he did not respond to this offer. Another memorandum was issued to the Petitioner on 6.1.1999 again asking him to attend to casual duties. On this occasion he joined duties on 11.1.1999 and worked uptill 21.1.1999. However, Petitioner did not

adhere to at the time schedule of casual labourer between 8 AM to 5 PM and that he left his job without any intimation. Yet another opportunity was given to the Petitioner vide letter dated 11.3.1999. However, he failed to respond on this occasion. On 9.4.1999 once again the Petitioner was called upon to join duty immediately. He was informed that if he does not respond, it would be presumed that he was not interested in casual work. The Petitioner did not respond to the said call. The Respondent's submission was that, from the aforesaid, it is clear that the Petitioner was not interested to work on casual basis. The Respondent also denied the appointment of Shri Sohan Pal on casual basis during the month of August 2005 by the Central Ground Water Board, Faridabad.

6. The Tribunal rejected the Petitioner's original application by observing that the Petitioner had not denied the fact that despite repeated calls, the Petitioner had not responded for the casual work offered to him. This shows that the Petitioner was not interested in working on casual basis with the Respondent. Obviously, the Respondent could not have waited for the Petitioner indefinitely if he chose not to join the work in spite of repeated opportunities given to him. The Tribunal found no fault in the Respondent's engaging another person in order to get the work done since the work could not have been made to suffer to await the arrival of the Petitioner. Since the Tribunal was satisfied that the Respondent had made efforts to

engage the Petitioner repeatedly on casual basis, and that he had not joined duties there was no illegality in the action of the Respondents.

7. Having gone through the order of the Tribunal we find no infirmity in the same. Moreover, in view of the decision of the Supreme Court in ***Secretary, Government of Karnataka vs. Uma Devi and others,*** (2006) 4 SCC 1, in our view, there is no merit in this petition. In the light of the aforesaid, we dismiss this Writ Petition as being without any merit.

VIPIN SANGHI, J.

A.K. SIKRI, J.

August 29, 2007
P.K. BABBAR